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10 Attorneys for Defendant, Counter-Claimant and Cross-Claimant,
11 **WESTCHESTER FIRE INSURANCE COMPANY**

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LENSCRAFTERS, INC.; and EYEXAM OF
CALIFORNIA, INC.,

Plaintiffs,

vs.

LIBERTY MUTUAL FIRE INSURANCE
COMPANY; EXECUTIVE RISK SPECIALTY
INSURANCE COMPANY; UNITED STATES
FIRE INSURANCE COMPANY; MARKEL
AMERICAN INSURANCE COMPANY; and
WESTCHESTER FIRE INSURANCE
COMPANY,

Defendants.

AND RELATED COUNTER AND CROSS-
CLAIMS

) CASE NO. C-07-2853 SBA

) E-FILING

) **STIPULATION TO DISMISS WITHOUT
PREJUDICE WESTCHESTER FIRE
INSURANCE COMPANY'S COUNTER-
CLAIM AND CROSS-CLAIM;
[PROPOSED] ORDER THEREON**

) Courtroom: 3
The Hon. Saundra Brown Armstrong

WHEREAS, on or about July 18, 2007, Defendant, Counter-Claimant and Cross-Claimant,
WESTCHESTER FIRE INSURANCE COMPANY ("Westchester Fire") filed and served its Counter-Claim And
Cross-Claim For Declaratory Relief (the "Counter/Cross Claim") against LENSCRAFTERS, INC. and EYEXAM
OF CALIFORNIA, INC (collectively "LensCrafters") as Counter-Defendants, and against LIBERTY MUTUAL
INSURANCE COMPANY ("Liberty Mutual"), EXECUTIVE RISK SPECIALTY INSURANCE COMPANY

1 ("Executive Risk"), UNITED STATES FIRE INSURANCE COMPANY ("U.S. Fire"), and MARKEL
 2 AMERICAN INSURANCE COMPANY ("Markel American"), as Cross-Defendants (collective, the "Cross-
 3 Defendants");

4 WHEREAS, LensCrafters and various of the Cross-Defendants have heretofore filed and served answers
 5 to Westchester Fire's Counter/Cross Claim;

6 WHEREAS, a conditional settlement has been reached by and between Westchester Fire and LensCrafters
 7 as respects both this case and the underlying class action lawsuit, *Snow v. LensCrafters, Inc., et al.*, San
 8 Francisco Superior Court Case No. CGC-02-40554 ("Snow") out of which the instant action arises;

9 WHEREAS, said conditional settlement has obviated the need for Westchester Fire to maintain its
 10 Cross/Counter Claim, Westchester Fire desires to dismiss same without prejudice at this time in order to effectuate
 11 said conditional settlement, and that when the *Snow* settlement is finally approved, Westchester Fire will file a
 12 dismissal of same with prejudice;

13 NOW THEREFORE, Westchester Fire, LensCrafters, Liberty Mutual, Executive Risk, U.S. Fire, and
 14 Markel American, by and through their respective attorneys of record, do hereby stipulate that Westchester Fire
 15 may hereby dismiss its Counter/Cross Claim without prejudice.

17 DATED: February 12, 2008

18 HARRIS, GREEN & DENNISON
 A Professional Corporation

19 By 
 20 ROBERT D. DENNISON, ESQ.
 GARY L. GREEN, ESQ.
 21 Attorneys for Defendant, Counter-Claimant and
 Cross-Claimant, WESTCHESTER FIRE
 22 INSURANCE COMPANY

23 DATED: February ___, 2008

24 HELLER EHRLMAN LLP

25 By
 26 RICHARD DeNATALE, ESQ.
 CELIA M. JACKSON, ESQ.
 27 Attorneys for Plaintiffs and
 Counter-Defendants, LENSCRAFTERS, INC, and
 28 EYEXAM OF CALIFORNIA, INC.,

1 ("Executive Risk"), UNITED STATES FIRE INSURANCE COMPANY ("U.S. Fire"), and MARKEL
2 AMERICAN INSURANCE COMPANY ("Markel American"), as Cross-Defendants (collective, the "Cross-
3 Defendants");

4 WHEREAS, LensCrafters and various of the Cross-Defendants have heretofore filed and served answers
5 to Westchester Fire's Counter/Cross Claim;

6 WHEREAS, a conditional settlement has been reached by and between Westchester Fire and LensCrafters
7 as respects both this case and the underlying class action lawsuit, *Snow v. LensCrafters, Inc., et al.*, San
8 Francisco Superior Court Case No. CGC-02-40554 ("Snow") out of which the instant action arises;

9 WHEREAS, said conditional settlement has obviated the need for Westchester Fire to maintain its
10 Cross/Counter Claim, Westchester Fire desires to dismiss same without prejudice at this time in order to effectuate
11 said conditional settlement, and that when the *Snow* settlement is finally approved, Westchester Fire will file a
12 dismissal of same with prejudice;

13 NOW THEREFORE, Westchester Fire, LensCrafters, Liberty Mutual, Executive Risk, U.S. Fire, and
14 Markel American, by and through their respective attorneys of record, do hereby stipulate that Westchester Fire
15 may hereby dismiss its Counter/Cross Claim without prejudice.
16

17 DATED: February 12, 2008

HARRIS, GREEN & DENNISON
A Professional Corporation

19 By ROBERT D. DENNISON, ESQ.
20 GARY L. GREEN, ESQ.

21 Attorneys for Defendant, Counter-Claimant and
22 Cross-Claimant, WESTCHESTER FIRE
INSURANCE COMPANY

23 DATED: February 22, 2008

24 HELLER EHRMAN LLP

25 By Richard DeNatale
26 Richard DeNatale, ESQ.
27 Celia M. Jackson
28 Celia M. Jackson, ESQ.

Attorneys for Plaintiffs and
Counter-Defendants, LENSCRAFTERS, INC, and
EYEXAM OF CALIFORNIA, INC.,

1
2 DATED: February 14, 2008

ROSS, DIXON & BELL, LLP

3
4 By /s/ Terrence R. McInnis
5 TERRENCE R. MCINNIS, ESQ.
6 MONIQUE M. FUENTES, ESQ.
7 Attorneys for Defendant and Counter-Defendant,
EXECUTIVE RISK SPECIALTY INSURANCE COMPANY

8 DATED: February 14, 2008

9
10 WILLOUGHBY, STUART & BENING

11 By /s/ Alex F. Stuart
12 ALEX F. STUART, ESQ.
13 Attorneys for Defendant and Counter-Defendant,
LIBERTY MUTUAL INSURANCE COMPANY

14 DATED: February 22, 2008

15 SQUIRE, SANDERS & DEMPSEY, L.L.P.

16 By Mark Craig Goodman
17 MARK CRAIG GOODMAN, ESQ.
18 AMY ROSE, ESQ.
19 Attorneys for Defendant and Counter-Defendant,
UNITED STATES FIRE INSURANCE COMPANY

20 DATED: February , 2008

21 LONG & LEVIT, LLP

22 By Chip Cox, Esq.
23 IRENE YESOWITCH, ESQ.
24 Attorneys for Defendant and Counter-Defendant,
25 MARKEL AMERICAN INSURANCE COMPANY

26 //

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2 DATED: February 12, 2008

ROSS, DIXON & BELL, LLP

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By

TERRENCE R. McINNIS, ESQ.
MONIQUE M. FUENTES, ESQ.Attorneys for Defendant and Counter-Defendant,
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WILLOUGHBY, STUART & BENING

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SQUIRE, SANDERS & DEMPSEY, L.L.P.

By

MARK CRAIG GOODMAN, ESQ.
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UNITED STATES FIRE INSURANCE COMPANYDATED: February 12, 2008

LONG & LEVIT, LLP

By

Irene Yesowitch

CHIP COX, ESQ.
IRENE YESOWITCH, ESQ.
Attorneys for Defendant and Counter-Defendant,
MARKEL AMERICAN INSURANCE COMPANY

ORDER

Good cause appearing therefor, IT IS HEREBY ORDERED that the Counter-Claim and Cross-Claim of Defendant, Counter-Claimant and Cross-Claimant, Westchester Fire Insurance Company is hereby dismissed without prejudice.

DATED: February , 2008

United States District Judge

PROOF OF SERVICE

I, SHIRLEY AOKI, am employed in the aforesaid county, State of California: I am over the age of 18 years and not a party to the within action: my business address is 5959 West Century Boulevard, Suite 1100, Los Angeles, California 90045.

On February 25, 2008, I served the following document described as:

**STIPULATION TO DISMISS WITHOUT PREJUDICE WESTCHESTER
FIRE INSURANCE COMPANY'S COUNTER-CLAIM AND CROSS-CLAIM
[PROPOSED] ORDER THEREON**

VIA THE UNITED STATES DISTRICT COURT ELECTRONIC FILING SERVICE on interested parties in this action set forth below:

Richard DeNatale, Esq. Celia M. Jackson, Esq. Heller Ehrman LLP 333 Bush Street San Francisco, CA 94104-2878 Tel.: (415) 772-6000 Fax: (415) 772-6268 Email: richard.denatale@hellerehrman.com celia.jackson@hellerehrman.com	Attorneys for Plaintiffs, Lenscrafters, Inc., Eyexam of California, Inc.
Terrence R. McInnis, Esq. Ross, Dixon & Bell, LLP 5 Park Plaza, Suite 1200 Irvine, CA 92614 Tel.: (949) 622-2700 Fax: (949) 622-2739 Email: tmcinnis@rdblaw.com	Attorneys for Defendant, Executive Risk Specialty Insurance Company
Alex F. Stuart, Esq. Willoughby, Stuart & Bening Fairmont Plaza 50 West San Fernando, Suite 400 San Jose, CA 95113 Tel.: (408) 289-1972 Fax: (408) 295-6375 Email: afs@wshaw.net	Attorneys for Defendant, Liberty Mutual Fire Insurance Company

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13 Attorneys for Defendants,
14 U.S. Fire Insurance Company

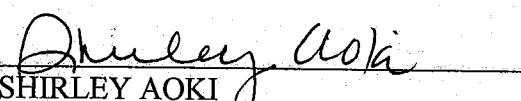
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29 Attorneys for Defendant,
30 Executive Risk Specialty Insurance Company

31 Executed on February 25, 2008, at Los Angeles, California. I certify (or declare) under penalty of
32 perjury under the laws of the State of California that the foregoing is true and correct.

33 
34 SHIRLEY AOKI